REMARKS

In the non-final Office Action, the Examiner rejects claims 1-31 under 35 U.S.C. § 103(a) as unpatentable over MULTERER et al. (U.S. Patent Application Publication No. 2004/00002384) in view of KO et al. (U.S. Patent Application Publication No. 2002/0013882). Applicants respectfully traverse this rejection.[1]

By way of the present amendment, Applicants cancel claims 2 and 17 without prejudice or disclaimer and amend claims 1, 3, 4, 6, 12, 15, 18, 24, 27, 28, and 31 to improve form. No new matter has been added by way of the present amendment. Claims 1, 3-16, and 18-31 remain pending.

Pending claims 1, 3-16, and 18-31 stand rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over MULTERER et al. in view of KO et al. Applicants respectfully traverse this rejection.

Amended independent claim 1 is directed to a method for establishing a gaming session between a first network device that includes an operating system and at least one second network device in a communications network. The method includes modifying the first network device for the gaming session, where the modifying includes loading a new operating system, booting the first network device up in the new operating system,

[1] As Applicants' remarks with respect to the Examiner's rejections are sufficient to overcome these rejections, Applicants' silence as to assertions by the Examiner in the Office Action or certain requirements that may be applicable to such rejections (e.g., whether a reference constitutes prior art, motivation to combine references, assertions as to dependent claims, etc.) is not a concession by Applicants that such assertions are accurate or such requirements have been met, and Applicants reserve the right to analyze and dispute such assertions/requirements in the future.

detecting a hardware configuration of the first network device, generating a configuration file based on the detecting, installing network access software and peering software using the configuration file; connecting the first network device to the communications network; and establishing a peer-to-peer gaming session with the at least one second network device. MULTERER et al. and KO et al., whether taken alone or in any reasonable combination, do not disclose or suggest this combination of features.

For example, MULTERER et al. and KO et al. do not disclose or suggest installing network access software and peering software using the configuration file generated based on detecting a hardware configuration of the first network device. This feature is similar to a feature previously recited in claim 2 (now canceled). With respect to that claim, the Examiner admits that MULTERER et al. and KO et al. do not disclose this feature (Office Action, p. 3). The Examiner alleges that:

> the peer to peer gaming software of Multerer would require access to the network in order to access the LAN/Internet, therefore one of ordinary skill in the art would require the installation of the peering software and the network access software would be needed in order to correctly access the gaming session as described in Multerer (see rejection above). By this rationale, one of ordinary skill in the art would find it necessary to install peering software and network access software in order to correctly use the game software

(Office Action, pp. 3-4). Applicants respectfully disagree with the Examiner's allegations.

At the outset, Applicants note that the Examiner's allegations do not address why one skilled in the art would have been motivated to incorporate installing network access software and peering software using the configuration file generated based on detecting a hardware configuration of the first network device, as recited in claim 1, into the

MULTERER et al. system. Instead, the Examiner appears to simply address why it would have been obvious to incorporate installing network access software and peering software into the MULTERER et al. system. Thus, the Examiner has not established a *prima facie* case of obviousness with respect to claim 1.

Applicants submit that the mere fact that MULTERER et al. discloses peer-to-peer gaming would not lead one skilled in the art at the time of Applicants' invention to conclude that it would have been obvious to incorporate installing network access software and peering software using the configuration file generated based on detecting a hardware configuration of the first network device, as recited in claim 1, into the MULTERER et al. system. Applicants submit that the Examiner's motivation is based on impermissible hindsight.

For at least the foregoing reasons, Applicants submit that claim 1 is patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 1 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn.

Claims 3-11 depend from claim 1. Therefore, these claims are patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 1. Thus, Applicants respectfully request that the rejection of claims 3-11 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn. Moreover, these claims recite additional features not disclosed or suggested by MULTERER et al. and KO et al.

For example, claim 3 recites installing gaming software using the configuration file. The Examiner relies on the Abstract and paragraph 0040 of either MULTERER et al. or KO et al., respectively, for allegedly disclosing this feature (Office Action, p. 4). Applicants respectfully disagree with the Examiner's interpretation of MULTERER et al. and KO et al.

In the Abstract, MULTERER et al. discloses:

> Discovery and distribution of game session security information includes receiving a request to generate a new game session from a computing device and maintaining a record of a game session identifier for the new game session and a game session key for the new game session, and making the new game session available for other computing devices to join. A request for information describing one or more of a plurality of game sessions may also be received and responded to with the information describing the one or more game sessions as well as a session key that can be used to communicate with at least one of the one or more other computing devices that are part of the game session.

This section of MULTERER et al. discloses the discovery and distribution of game session security information. This section of MULTERER et al. does not relate to installing gaming software using the configuration file that is generated based on detecting a hardware configuration of the first network device, as recited in claim 3.

At paragraph 0040, MULTERER et al. discloses:

> The host computing device 102 can identify its desire to create a new game session in a variety of different manners. In one implementation, a predefined session ID value is sent in act 162 to indicate to match making system 104 that a new game session is to be created (for example, a session ID value of zero). Alternatively, a special command may be defined for use by host computing device 102 to request creation of a new game session. In yet another alternative, the request may be inherent in some other command, or due to the result of another operation. For example, if a computing device requests to join a game session with a set of attributes for which no current game session satisfies, then match

> making system 104 may automatically create a new game session with that set of attributes.

This section of MULTERER et al. discloses a host computing device 102 requesting creation of a new game session. This section of MULTERER et al. does not relate to installing gaming software using the configuration file that is generated based on detecting a hardware configuration of the first network device, as recited in claim 3.

In the Abstract, KO et al. discloses:

> A recordable optical disc containing various operating systems and user configurations and an apparatus reading from and recording onto the same are provided. The optical disc has a system region in which data is read by a computer and a user cannot record data therein, and a data region in which data can be recorded, in which at least one operating system and information thereof are recorded in the system region, and user configuration setting information having configuration variables of users is recorded in the data region. The optical disc records various operating systems, application programs and user configurations so that multiple users can use various types of computers or game systems.

This section of KO et al. discloses an optical disc that contains various operating systems and user configurations. This section of KO et al. does not relate to installing gaming software using the configuration file that is generated based on detecting a hardware configuration of the first network device, as recited in claim 3.

At paragraph 0040, KO et al. discloses:

> After the operating system is loaded, a necessary user configuration is set up using user configuration setting information recorded in the data region 100b disc 100 during the operation S310. After obtaining configuration variables, such as application programs used by the user and data files generated by the application programs from the user configuration setting information 60, necessary application programs are executed. For example, whatever configuration a computer may have, the user can obtain the same operating system and user configuration and update the user configuration appropriately in response to changes. The user configuration setting information contains information on the application

> program used by the user and data files generated using the application programs.

This section of KO et al. discloses that after an operating system is loaded, a necessary user configuration is set up using user configuration setting information recorded in the data region of an optical disc. This section of KO et al. does not relate to installing gaming software using the configuration file that is generated based on detecting a hardware configuration of the first network device, as recited in claim 3.

For at least these additional reasons, Applicants submit that claim 3 is patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 3 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn.

Claim 6 recites that the server includes an Internet Relay Chat (IRC) server. The Examiner admits that MULTERER et al. and KO et al. do not disclose this feature (Office Action, p. 4). The Examiner alleges:

> It would have been obvious ... to modify the system of Multerer-Ko to include an IRC server connection in order to allow users to connect to an IRC server in order to communicate via a well known protocol to a server and receive data from the server

(Office Action, p. 4). Applicants submit that the Examiner's allegation is merely conclusory and, thus, insufficient for establishing a *prima facie* case of obviousness. The Examiner does not provide any reasonable evidence as to why one skilled in the art at the time of Applicants' invention would have been motivated to incorporate connecting, prior to establishing the peer-to-peer gaming session, to a server that includes an IRC server

into the MULTERER et al. system. Applicants submit that the Examiner's motivation is based on impermissible hindsight.

For at least these additional reasons, Applicants submit that claim 6 is patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 6 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn.

Independent claims 12, 24, and 31 recite features similar to (yet possibly of different scope than) features described above with respect to claim 1. Therefore, Applicants submit that claims 12, 24, and 31 are patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination, for at least reasons similar to reasons given above with respect to claim 1. Thus, Applicants respectfully request that the rejection of claims 12, 24, and 31 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn.

Claims 13-16 and 18-23 depend from claim 12. Therefore, these claims are patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 12. Thus, Applicants respectfully request that the rejection of claims 13-16 and 18-23 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn. Moreover, these claims recite additional features not disclosed or suggested by MULTERER et al. and KO et al.

For example, claim 16 recites that the processor is configured to download the gaming package (which includes an operating system, a script for detecting a hardware configuration of the device, software for accessing a network, and peering software) from the network. The Examiner admits that MULTERER et al. and KO et al. do not disclose this feature (Office Action, p. 7). The Examiner alleges:

> "Official Notice" is taken that both the concepts and advantages of providing for downloading gaming packages over the Internet are well known and expected in the art

(Office Action, p. 7). Applicants respectfully disagree.

Applicants submit that a processor that is configured to download a gaming package, which includes an operating system, a script for detecting a hardware configuration of the device, software for accessing a network, and peering software, from a network is not well known and expected in the art. Applicants respectfully request that the Examiner provide a reference that specifically discloses that downloading a gaming package, which includes an operating system, a script for detecting a hardware configuration of the device, software for accessing a network, and peering software is well known and expected in the art.

For at least these additional reasons, Applicants submit that claim 16 is patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination. Thus, Applicants respectfully request that the rejection of claim 16 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn.

Claims 25-30 depend from claim 24. Therefore, these claims are patentable over MULTERER et al. and KO et al., whether taken alone or in any reasonable combination, for at least the reasons given above with respect to claim 24. Thus, Applicants respectfully request that the rejection of claims 25-30 under 35 U.S.C. § 103(a) based on MULTERER et al. and KO et al. be reconsidered and withdrawn.

In view of the foregoing amendments and remarks, Applicants respectfully request the Examiner's reconsideration of this application, and the timely allowance of the pending claims.

To the extent necessary, a petition for an extension of time under 37 C.F.R. § 1.136 is hereby made. Please charge any shortage in fees due in connection with the filing of this paper, including extension of time fees, to Deposit Account No. 50-1070 and please credit any excess fees to such deposit account.

Respectfully submitted,

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